

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CARL AMARI,

Plaintiff,

v.

MICHAEL SPILLAN, et al.,

Defendants.

Case No. 2:08-cv-829

JUDGE GREGORY L. FROST

Magistrate Judge Terence P. Kemp

OPINION AND ORDER

This matter is before the Court on Plaintiff's Motion for Order that HedgeLender, LLC Pay for Costs of Service. (Doc. # 34.) That motion is unopposed.

Fed. R. Civ. P. 4(d)(1) states that an individual, corporation or association that receives notice of a suit and a request for waiver of service "has a duty to avoid unnecessary costs of serving the summons." Thus, if a defendant fails to waive service, the Federal Rules provide:

Failure to Waive. If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

Fed. R. Civ. P. 4(d)(2).

HedgeLender has not shown good cause. Indeed, HedgeLender, through its counsel, repeatedly promised the waiver to Plaintiff, at one time actually providing one that was rejected by the Clerk of this Court because it was post-dated. (Doc. # 34-2.) Thus, an award is required by Rule 4.

Plaintiff has provided evidence that the cost to perfect service upon HedgeLender was

\$245.00 and the expenses incurred by Plaintiff, including the attorney fees for preparation of the motion before this Court, was \$152.50. *See id.* The Court finds the attorney fees reasonable.

Accordingly, the Court **GRANTS** Plaintiff's Motion for Order that Hedgelender, LLC Pay for Costs of Service (Doc. # 34) and **ENTERS JUDGMENT** against HedgeLender in the amount of \$397.50, which it is **ORDERED** to pay to Plaintiff forthwith.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE